

110TH CONGRESS  
1ST SESSION

# H. R. 4320

To amend title XIX of the Social Security Act to strengthen the Medicaid third-party liability requirements.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2007

Mr. ENGEL introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to strengthen the Medicaid third-party liability requirements.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. STRENGTHENING THE MEDICAID THIRD-PARTY**  
4               **LIABILITY REQUIREMENT.**

5               (a) STATE AND HEALTH PROVIDER RIGHT TO MAKE  
6       INQUIRIES AND THIRD-PARTY RESPONSIBILITIES.—Sec-  
7       tion 1902 of the Social Security Act (42 U.S.C. 1396a)  
8       is amended—

9               (1) in subsection (a)(25)—

1 (A) by striking “and” at the end of sub-  
2 paragraph (H);

3 (B) by adding “and” at the end of sub-  
4 paragraph (I); and

5 (C) by adding at the end the following new  
6 subparagraph:

7 “(J) that the State shall provide assur-  
8 ances satisfactory to the Secretary that the  
9 State has in effect laws requiring the State to  
10 make inquiries to third parties, including health  
11 insurers, self-insured plans, group health plans  
12 (as defined in section 607(1) of the Employee  
13 Retirement Income Security Act of 1974), serv-  
14 ice benefit plans, managed care organizations,  
15 pharmacy benefit managers, or other parties  
16 that are, by statute, contract, or agreement, le-  
17 gally responsible for payment of a claim for a  
18 health care item or service, operating in any  
19 State;”; and

20 (2) by adding at the end the following new sub-  
21 section:

22 “(dd) RESPONSIBILITIES OF THIRD PARTIES.—

23 “(1) IN GENERAL.—Third parties described in  
24 subsection (a)(25)(J) shall—

1           “(A) provide, with respect to individuals  
2           who are eligible for, or are provided, medical as-  
3           sistance under the State plan, upon the request  
4           of the State, information to determine during  
5           what period the individual (or the individual’s  
6           spouse or dependents) may be (or may have  
7           been) covered by a health insurer and the na-  
8           ture of the coverage that is or was provided by  
9           the health insurer (including the name, address,  
10          and identifying number of the plan) in a man-  
11          ner prescribed by the Secretary;

12          “(B) accept the State’s right of recovery  
13          and the assignment to the State of any right of  
14          an individual or other entity to payment from  
15          the party for an item or service for which pay-  
16          ment has been made under the State plan;

17          “(C) respond to any inquiry by the State  
18          regarding a claim for payment for any health  
19          care item or service that is submitted not later  
20          than 3 years after the date of the provision of  
21          such health care item or service; and

22          “(D) agree not to deny a claim submitted  
23          by the State solely on the basis of the date of  
24          submission of the claim, the type or format of  
25          the claim form, or a failure to present proper

1 documentation at the point-of-sale that is the  
2 basis of the claim, if—

3 “(i) the claim is submitted by the  
4 State within the 3-year period beginning  
5 on the date on which the item or service  
6 was furnished; and

7 “(ii) any action by the State to en-  
8 force its rights with respect to such claim  
9 is commenced within 6 years of the State’s  
10 submission of such claim.

11 “(2) INQUIRIES OF THIRD PARTIES.—Entities  
12 providing services and items to individuals receiving  
13 medical assistance under this title (or to individuals  
14 the entity reasonably believes may receive medical  
15 assistance under this title) may make inquiries to  
16 third parties described in subsection (a)(15)(J) that  
17 are, by statute, contract, or agreement, legally re-  
18 sponsible for payment of a claim, operating in any  
19 State, for the purpose of determining eligibility and  
20 coverage for those individuals.”.

21 (b) REFERRALS TO THE SECRETARY; MAINTAINING  
22 THE INTEGRITY OF THE MEDICAID PROGRAM.—Section  
23 1909 of such Act (42 U.S.C. 1396h) is amended—

24 (1) in subsection (b), by adding at the end the  
25 following new paragraph:

1 “(5) The law contains a requirement for mak-  
2 ing a referral to the Secretary for the purposes of  
3 subsection (e).”; and

4 (2) by adding at the end the following new sub-  
5 section:

6 “(e) FEDERAL CIVIL PENALTIES AND PAYMENTS TO  
7 STATES.—

8 “(1) FEDERAL CIVIL PENALTIES.—

9 “(A) IN GENERAL.—Upon referral from a  
10 State, if the Secretary finds that a third party,  
11 including any third party described in section  
12 1902(a)(25)(J), that is, by statute, contract, or  
13 agreement, legally responsible for payment of a  
14 claim for a health care item or service, failed to  
15 reply to inquiries about an individual sent pur-  
16 suant to such section, the Secretary shall im-  
17 pose a civil penalty upon that third party of not  
18 less than \$5,000 and not more than \$10,000,  
19 plus 3 times the amount of the claim for that  
20 individual without regard to any other legal re-  
21 sponsibility of the third party for payment of a  
22 claim for a health care item or service for that  
23 individual.

24 “(B) FAILURE DEFINED.—For purposes of  
25 subparagraph (A), the term ‘failed’ means the

1 failure of a third party described to provide the  
2 information required by section 1902(a)(25)(J)  
3 about an individual within 10 days of the date  
4 the inquiry is first made to the party.

5 “(2) PAYMENTS TO STATES.—The Secretary  
6 shall pay a State an amount equal to the Federal  
7 medical assistance percentage of any amount obli-  
8 gated to the United States under paragraph (1).”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect on January 1, 2009.

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